

# Order

Michigan Supreme Court  
Lansing, Michigan

December 29, 2010

Marilyn Kelly,  
Chief Justice

138602

CATHERINE WILCOX, Individually, and as  
Next Friend of ISAAC WILCOX, a Minor,  
Plaintiff-Appellant,  
and

Michael F. Cavanagh  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway  
Alton Thomas Davis,  
Justices

SUNRISE HOME HEALTH SERVICES, INC.,  
Intervening Plaintiff,

v

SC: 138602  
COA: 290515  
Kent CC: 08-010129-NF

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,  
Defendant-Appellee.

On order of the Court, the motion for reconsideration of this Court's November 9, 2010 order is considered, and it is GRANTED for the limited purpose of clarifying the remand instructions issued by the Court of Appeals. The Court of Appeals stated that "[w]hether a cost constitutes an allowable expense is a question of law and so it is to be determined by the court, not the jury." Although whether an expense constitutes an "allowable expense" under MCL 500.3107(1)(a) is generally a question of law for the court, *Griffith v State Farm Mut Automobile Ins Co*, 472 Mich 521, 525-526 (2005), "the question whether expenses are reasonable and reasonably necessary is generally one of fact for the jury." *Nasser v Auto Club Ins Assoc*, 435 Mich 33, 55 (1990). Therefore, to the extent that there are material questions of fact pertaining to whether the expenses in this case are reasonable and reasonably necessary, these questions of fact must be decided by a jury.

CAVANAGH, J., states as follows:

Although I agree with this Court's decision to clarify the remand instructions issued by the Court of Appeals, I continue to disagree with this Court's order vacating its April 16, 2010 order and denying leave to appeal, for the reasons stated in my dissenting statement in this case, \_\_\_ Mich \_\_\_ (2010).

KELLY, C.J., and HATHAWAY, J., join the statement of CAVANAGH, J.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 29, 2010

*Corbin R. Davis*

Clerk